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8 ERICKSON PRODUCTIONS INC, et al.,
9 Plaintiffs,
10 v.
11 KRAIG R. KAST,
12 Defendant.

13 Case No.[5:13-cv-05472-HRL](#)

14 **INTERIM ORDER RE MOTION TO
ALTER OR AMEND JUDGMENT**

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16 Jim Erickson and Erickson Productions, Inc. (collectively, Erickson) move this court to
17 alter or amend the judgment to add judgment debtors, including The Black Oak Trust (Trust) and
18 one Marielle Baker who have made an appearance before this court. The motion is brought
19 pursuant to Fed. R. Civ. P. 69(a), which this court understands is the rule through which a party
20 may seek amendment to add judgment debtors. In re Levander, 180 F.3d 1114, 1120-21 (9th
21 Cir.1999). What this court would like Erickson to clarify is this court's jurisdiction to entertain
22 their motion where, as here, there is a pending appeal.

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24 Generally, a timely notice of appeal transfers jurisdiction to the court of appeals with
25 respect to all matters involved in the appeal. In re Mirzai, 236 B.R. 8, 10 (9th Cir. 1983). That
26 rule is not absolute; and, the district court retains jurisdiction to resolve certain matters while an
27 appeal is pending. Id. Nevertheless, [t]he trial court cannot take actions over those aspects of the
28 case involved in the appeal." Id. "The focus is on whether the trial court is being asked to alter

1 the status quo with respect to the appeal.” Id. Is Erickson’s Fed. R. Civ. P. 69 motion one of
2 those matters which this court properly may address during appeal?

3 Erickson shall file a brief addressing this issue by **January 10, 2017**. To the extent they
4 wish to respond, Kast and the Trust/Baker shall file their respective briefs by **January 20, 2017**.
5 All briefs are limited to no more than 10 pages. Meanwhile, briefing on Erickson’s motion to alter
6 or amend the judgment will be stayed pending resolution of the threshold question re this court’s
7 jurisdiction.

8 SO ORDERED.

9 Dated: December 22, 2016

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12 HOWARD R. LLOYD
United States Magistrate Judge
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1 5:13-cv-05472-HRL Notice has been electronically mailed to:

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5 6 5:13-cv-05472-HRL Notice sent by U.S. Mail to:

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United States District Court
Northern District of California